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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH BATES,

Defendant and Appellant.

B244523

(Los Angeles County Super. Ct.
No. NA092042)

APPEAL from a judgment of the Superior Court of Los Angeles County, Jesse I. Rodriguez, Judge. Affirmed.

California Appellate Project, Jonathan B. Steiner, Executive Director, and Ann Krausz, Attorney, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Joseph Bates was convicted by jury in count 1 of first degree residential burglary and in count 3 of burglary of a detached garage, both violations of Penal Code section 459. The trial court sentenced defendant to the midterm of four years in count 1 and stayed the sentence in count 3 under Penal Code section 654. An error in calculating custody credits was corrected by postjudgment order.

Defendant filed a timely notice of appeal from the judgment. This court appointed counsel to represent defendant on appeal. On April 17, 2013, appointed counsel filed a brief raising no issues, asking this court to independently review the record for arguable appellate contentions under *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised of his right to file a supplemental brief within 30 days. No supplemental brief has been filed by defendant.

We have completed our independent review of the record. Our review of the record reveals no arguable contentions on appeal. The record contains substantial evidence that defendant entered a residence and its detached garage without permission of the owner. The owner and her family were living in a hotel at the time, because the house had been damaged in a fire shortly before the burglary. A neighbor called 911 after seeing two men going in and out of the residence loading items onto a truck. Officers responded and took defendant and another man into custody at the scene. Property belonging to the owner of the house was in the truck.

The jury was properly instructed on the law. The sentence imposed was within the sound discretion of the trial court.

The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, J.

We concur:

MOSK, Acting P. J.

KUMAR, J.*

* Judge of the Los Angeles County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.